

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

STANDARD INSURANCE COMPANY,

Plaintiff,

v.

Civ. No. 22-664 DHU/SCY

REBECCA ARMIJO LAKEY an individual,
XENA LAKEY, and E.L., a minor by and
through his mother HEATHER SHREVES, on
behalf of THE ESTATE OF RICHARD ALAN
LAKEY,

Defendants.

ORDER DENYING MOTION FOR DEFAULT JUDGMENT

This matter comes before the Court on Plaintiff's Motion For Default Judgment As To Defendant Xena Lakey. Doc. 24. In that motion, Plaintiff states that it has been in contact with Xena Lakey since November 22 and formally served the summons upon her on February 3, 2023. *Id.* at 1. Defendant Xena Lakey has not yet filed an answer. *Id.* Accordingly, Plaintiff requests a default judgment against Defendant Xena Lakey. *Id.* at 2.

Federal Rule of Civil Procedure 55 contemplates a two-step process for default judgment. First, upon a showing by affidavit or otherwise, the clerk of the court must enter default against a party who has failed to plead or otherwise defend. Fed. R. Civ. P. 55(a). After the clerk enters default, the requesting party must apply to the court for default judgment. Fed. R. Civ. P. 55(b)(2); *see Meyers v. Pfizer, Inc.*, 581 F. App'x 708, 711 (10th Cir. 2014); *Williams v. Smithson*, 57 F.3d 1081 (10th Cir. 1995). Plaintiff has not requested or received an entry of default from the Clerk of Court. Accordingly, the Court will not proceed to determine whether a default judgement is appropriate, and denies the motion.

In addition, because Xena Lakey appeared at the status conference held May 18, 2023 and indicated her intent to participate in this case and file an answer, the Court sua sponte extends her answer deadline until 90 days from the date of this Order, or Monday, August 21, 2023.

SO ORDERED.


UNITED STATES MAGISTRATE JUDGE